

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE NORTHERN DISTRICT OF OHIO  
3                   EASTERN DIVISION

4                   - - -

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6           IN RE:   NATIONAL                                 :   MDL NO. 2804  
7           PRESCRIPTION OPIATE                             :  
8           LITIGATION                                       :  
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11           THIS DOCUMENT RELATES TO                     :   CASE NO.  
12           ALL CASES                                       :   1:17-MD-2804  
13   :  
14   :   Hon. Dan A.  
15   :   Polster

16                   - - -

17                   February 8, 2019

18                   - - -

19                   HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER  
20                   CONFIDENTIALITY REVIEW

21  
22                   Continued videotaped deposition  
23                   of CHRISTOPHER ZIMMERMAN taken pursuant to notice,  
24                   was held at the law offices of Reed Smith LLP, Three  
25                   Logan Square, 1717 Arch Street, Suite 3100,  
26                   Philadelphia, Pennsylvania, beginning at 1:44  
27                   p.m., on the above date, before Ann Marie  
28                   Mitchell, a Federally Approved Certified Realtime  
29                   Reporter, Registered Diplomate Reporter,  
30                   Registered Merit Reporter and Notary Public.

31                   - - -

32                   GOLKOW LITIGATION SERVICES  
33                   877.370.3377 ph | 917.591.5672 fax  
34                   deps@golkow.com

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<p>1 TIFFANY ELLIS</p> <p>2 Weitz &amp; Luxenberg P.C.</p> <p>3</p> <p>4 JOSH GAY</p> <p>5 Levin Papantonio Thomas Mitchell</p> <p>6 Rafferty Proctor P.A.</p> <p>7</p> <p>8 EMMA KABOLI</p> <p>9 Baron &amp; Budd, P.C.</p> <p>10</p> <p>11 ALEX SHERMAN</p> <p>12 - - -</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p>1 Zimmerman Email dated 17 Oct 2017, 89</p> <p>2 V2-5 Bates stamped</p> <p>3 ABDCMDL00272819</p> <p>4 Zimmerman Pay Change History, Bates 103</p> <p>5 V2-6 stamped ABDCMDL00383878</p> <p>6</p> <p>7 Zimmerman Map Chart, Bates stamped x 104</p> <p>8 V2-7 through x</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>

<p style="text-align: right;">Page 10</p> <p style="text-align: center;">- - - DEPOSITION SUPPORT INDEX - - -</p> <p>Direction to Witness Not to Answer</p> <p style="text-align: center;">Page Line</p> <p>Request for Production of Documents</p> <p style="text-align: center;">Page Line</p> <p>Stipulations</p> <p style="text-align: center;">Page Line</p> <p>Question Marked</p> <p style="text-align: center;">Page Line</p>	<p style="text-align: right;">Page 12</p> <p>1 My name is Mark Pifko. We met some months ago</p> <p>2 when I deposed you before.</p> <p>3 Do you recall?</p> <p>4 A. Yes, I do.</p> <p>5 Q. Okay. So the court reporter has</p> <p>6 just placed you under oath. It's the same oath</p> <p>7 you took when you were deposed before.</p> <p>8 Understood?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And that means that if</p> <p>11 you're untruthful or intentionally misleading or</p> <p>12 dishonest in some way, you could be subject to</p> <p>13 penalties from the court.</p> <p>14 Do you understand that?</p> <p>15 A. Yes.</p> <p>16 Q. Do you intend to provide truthful</p> <p>17 and accurate testimony today?</p> <p>18 A. I do.</p> <p>19 Q. Are you undergoing any medical</p> <p>20 treatment or suffering from any condition that</p> <p>21 would inhibit your ability to provide truthful</p> <p>22 and accurate testimony today?</p> <p>23 A. No.</p> <p>24 Q. Is there any reason that you can</p>
<p style="text-align: right;">Page 11</p> <p>1 THE VIDEOGRAPHER: We're now on</p> <p>2 the record. My name is David Lane,</p> <p>3 videographer for Golkow Litigation</p> <p>4 Services. Today's date is February 8,</p> <p>5 2019. Our time is 1:44 p.m.</p> <p>6 This deposition is taking place</p> <p>7 in Philadelphia, Pennsylvania in the</p> <p>8 matter of the National Prescription</p> <p>9 Opiate Litigation, MDL.</p> <p>10 Our deponent today is Chris</p> <p>11 Zimmerman. Counsel will be noted on the</p> <p>12 stenographic record.</p> <p>13 Our court reporter today is Ann</p> <p>14 Marie Mitchell and will now swear in our</p> <p>15 witness.</p> <p>16 - - -</p> <p>17 CHRISTOPHER ZIMMERMAN, after</p> <p>18 having been duly sworn, was examined and</p> <p>19 testified as follows:</p> <p>20 - - -</p> <p>21 EXAMINATION</p> <p>22 - - -</p> <p>23 BY MR. PIFKO:</p> <p>24 Q. Good afternoon, Mr. Zimmerman.</p>	<p style="text-align: right;">Page 13</p> <p>1 state as far as why this deposition should not go</p> <p>2 forward?</p> <p>3 A. No.</p> <p>4 Q. All right. The -- 2007</p> <p>5 AmerisourceBergen entered into a settlement</p> <p>6 agreement with the DEA. Correct?</p> <p>7 A. Yes.</p> <p>8 Q. And prior to that, there was an</p> <p>9 order to show cause that was sent to</p> <p>10 AmerisourceBergen. Correct?</p> <p>11 A. Correct.</p> <p>12 Q. And you're familiar with the</p> <p>13 order to show cause?</p> <p>14 A. I know we got an order to show</p> <p>15 cause, yes.</p> <p>16 Q. Okay. You were the top person</p> <p>17 with respect to diversion control at the time.</p> <p>18 Correct?</p> <p>19 A. I was in charge of regulatory --</p> <p>20 corporate security and regulatory affairs is the</p> <p>21 department I was responsible for.</p> <p>22 Q. But diversion control was under</p> <p>23 your authority. Correct?</p> <p>24 A. That aspect would be one of the</p>

<p style="text-align: right;">Page 14</p> <p>1 aspects under my control, yes.</p> <p>2 Q. And to this day, it's still --</p> <p>3 diversion control is something that's underneath</p> <p>4 your purview. Correct?</p> <p>5 A. Correct.</p> <p>6 Q. And you're the top person with</p> <p>7 respect to diversion control issues. Correct?</p> <p>8 A. I'm the top person in charge of</p> <p>9 that department that diversion control reports up</p> <p>10 to, yes.</p> <p>11 Q. I understand you have other</p> <p>12 responsibilities as well. Correct?</p> <p>13 A. Yes. I have dedicated people</p> <p>14 underneath me responsible for diversion control</p> <p>15 as well.</p> <p>16 Q. So you are familiar with the</p> <p>17 order to show cause that was sent to</p> <p>18 AmerisourceBergen at that time. Correct?</p> <p>19 A. At that time, we had an order to</p> <p>20 show cause, yes.</p> <p>21 Q. Do you have an understanding</p> <p>22 about what specifically it was that led the DEA</p> <p>23 to suspend the registration of the Orlando</p> <p>24 facility?</p>	<p style="text-align: right;">Page 16</p> <p>1 Q. One of the things that -- after</p> <p>2 the suspension order, AmerisourceBergen as part</p> <p>3 of the settlement agreement with the DEA</p> <p>4 undertook some changes to its diversion control</p> <p>5 policies and procedures. Correct?</p> <p>6 A. We made some enhancements and</p> <p>7 changes to the program. Correct.</p> <p>8 Q. Okay.</p> <p>9 A. At the request of DEA.</p> <p>10 Q. One of those changes was the</p> <p>11 initiation of a process by which</p> <p>12 AmerisourceBergen would not ship an order that it</p> <p>13 had deemed to be suspicious. Correct?</p> <p>14 A. That was part of the settlement</p> <p>15 agreement, yes.</p> <p>16 Q. Okay. That was not something the</p> <p>17 company was doing prior to that settlement</p> <p>18 agreement. Correct?</p> <p>19 A. Correct.</p> <p>20 Q. Are you aware that -- do you know</p> <p>21 who David May is?</p> <p>22 A. Yes.</p> <p>23 Q. He's someone who works for you.</p> <p>24 Correct?</p>
<p style="text-align: right;">Page 15</p> <p>1 MR. NICHOLAS: Object to the</p> <p>2 form.</p> <p>3 THE WITNESS: The -- my</p> <p>4 recollection, it had to do -- the order</p> <p>5 to show cause had to do with distribution</p> <p>6 of controlled substances and I believe</p> <p>7 possibly to an internet pharmacy. I'm</p> <p>8 not -- I don't recall specifically.</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. Okay. What I'm trying to get at,</p> <p>11 though, is I understand you're -- well, I</p> <p>12 shouldn't assume that.</p> <p>13 What I'm trying to get at is,</p> <p>14 what specifically did the DEA contend that</p> <p>15 AmerisourceBergen did wrong that led it to</p> <p>16 suspend the registration of the Orlando facility?</p> <p>17 MR. NICHOLAS: Object to the</p> <p>18 form.</p> <p>19 THE WITNESS: I would need to --</p> <p>20 I don't recall exactly what was written</p> <p>21 in the order to show cause from 11 years</p> <p>22 ago. If I saw the document, I could</p> <p>23 refresh my memory.</p> <p>24 BY MR. PIFKO:</p>	<p style="text-align: right;">Page 17</p> <p>1 A. Correct.</p> <p>2 Q. He had a lengthy history with the</p> <p>3 DEA. Correct? Prior to joining</p> <p>4 AmerisourceBergen?</p> <p>5 A. Correct.</p> <p>6 Q. Are you aware that he was deposed</p> <p>7 in this case as well?</p> <p>8 A. Yes.</p> <p>9 Q. The day after your first</p> <p>10 deposition?</p> <p>11 A. Yes.</p> <p>12 Q. And he served as a 30(b)(6) for</p> <p>13 the company. Correct?</p> <p>14 A. I believe so. For a certain time</p> <p>15 period.</p> <p>16 Q. Okay, right. So you served as a</p> <p>17 30(b)(6) for certain issues, and he did as well.</p> <p>18 Correct?</p> <p>19 A. Correct.</p> <p>20 Q. And the distinction between you</p> <p>21 was that he provided testimony from a time period</p> <p>22 more recently than you did. Correct?</p> <p>23 A. Correct.</p> <p>24 Q. Do you remember the time period</p>

<p style="text-align: right;">Page 18</p> <p>1 of which you were designated?</p> <p>2 A. I don't know when it started. I</p> <p>3 mean, I have been with the company a long time.</p> <p>4 But I think it was up till 2014 was my time</p> <p>5 period.</p> <p>6 Q. So Mr. May covered those same</p> <p>7 topics but with respect to the time period 2015</p> <p>8 going forward. Correct?</p> <p>9 A. That's my understanding.</p> <p>10 MR. NICHOLAS: Object to the</p> <p>11 form.</p> <p>12 And just I will remind everyone</p> <p>13 for the record that today Mr. Zimmerman</p> <p>14 is testifying as a fact witness, not as a</p> <p>15 30(b)(6) witness, pursuant to Special</p> <p>16 Master Cohen's order.</p> <p>17 BY MR. PIFKO:</p> <p>18 Q. Are you aware that Mr. May</p> <p>19 testified that under the Controlled Substances</p> <p>20 Act there is a, what we call the shipping</p> <p>21 requirement, which is a requirement that if you</p> <p>22 identify an order as suspicious, you cannot ship</p> <p>23 it --</p> <p>24 MR. NICHOLAS: Object to the</p>	<p style="text-align: right;">Page 20</p> <p>1 within the regulations.</p> <p>2 BY MR. PIFKO:</p> <p>3 Q. Do you have any way to explain</p> <p>4 why Mr. May would say there is a shipping</p> <p>5 requirement and you would say there's not?</p> <p>6 MR. NICHOLAS: Object to the</p> <p>7 form, mischaracterizes the testimony.</p> <p>8 Go ahead.</p> <p>9 THE WITNESS: I don't know. I</p> <p>10 can't speak for Mr. May.</p> <p>11 BY MR. PIFKO:</p> <p>12 Q. So if Mr. May said that, would</p> <p>13 you believe he's just wrong?</p> <p>14 MR. NICHOLAS: Object to the</p> <p>15 form.</p> <p>16 THE WITNESS: I don't know the</p> <p>17 context or -- of his statement. And</p> <p>18 when he referred -- I don't -- I can't</p> <p>19 answer that question.</p> <p>20 BY MR. PIFKO:</p> <p>21 Q. I believe one of the things we</p> <p>22 talked about when you were deposed before was the</p> <p>23 Masters Pharmaceutical decision from the DC</p> <p>24 Circuit.</p>
<p style="text-align: right;">Page 19</p> <p>1 form.</p> <p>2 BY MR. PIFKO:</p> <p>3 Q. -- unless you've performed the</p> <p>4 requisite due diligence to clear the order?</p> <p>5 MR. NICHOLAS: Object to the</p> <p>6 form, mischaracterizes the testimony.</p> <p>7 Go ahead.</p> <p>8 THE WITNESS: I don't know what</p> <p>9 Mr. May attested to.</p> <p>10 BY MR. PIFKO:</p> <p>11 Q. Okay. Well, I'll represent to</p> <p>12 you that he testified that there is a shipping</p> <p>13 requirement under the Controlled Substances Act.</p> <p>14 I'd like to know if you believe</p> <p>15 that there is a controlled -- a shipping</p> <p>16 requirement under the Controlled Substances Act.</p> <p>17 MR. NICHOLAS: Object to the</p> <p>18 form, mischaracterizes the testimony.</p> <p>19 Go ahead.</p> <p>20 THE WITNESS: My understanding of</p> <p>21 the regulation is that we have a</p> <p>22 responsibility to report suspicious</p> <p>23 orders. I have not seen any inference or</p> <p>24 reference to a shipping requirement</p>	<p style="text-align: right;">Page 21</p> <p>1 Do you recall discussing that?</p> <p>2 MR. NICHOLAS: Object to the</p> <p>3 form.</p> <p>4 Go ahead.</p> <p>5 THE WITNESS: Yeah. I remember</p> <p>6 it being mentioned, yes. Not</p> <p>7 specifically, but yes.</p> <p>8 BY MR. PIFKO:</p> <p>9 Q. And you have some familiarity</p> <p>10 with that decision. Correct?</p> <p>11 A. A little, yes.</p> <p>12 Q. You understand, as we discussed</p> <p>13 in your deposition, that the case says that</p> <p>14 there's something called a shipping requirement.</p> <p>15 Correct?</p> <p>16 MR. NICHOLAS: Object to the</p> <p>17 form, mischaracterizes his testimony,</p> <p>18 calls for a legal analysis. He's a fact</p> <p>19 witness.</p> <p>20 THE WITNESS: I don't know that.</p> <p>21 BY MR. PIFKO:</p> <p>22 Q. Okay. So sitting here today, you</p> <p>23 have no explanation for why Mr. May would say</p> <p>24 there was a shipping requirement, but you don't</p>

<p style="text-align: right;">Page 22</p> <p>1 contend that there is?</p> <p>2 MR. NICHOLAS: Object to the</p> <p>3 form, mischaracterizes the testimony,</p> <p>4 asked and answered, bickering.</p> <p>5 THE WITNESS: I don't know what</p> <p>6 the context of the discussion that you</p> <p>7 and Mr. May had and with him to --</p> <p>8 whatever comment he made, if he did. But</p> <p>9 my answer is, I'm not aware of the</p> <p>10 shipping requirement as stipulated in the</p> <p>11 federal regulations.</p> <p>12 BY MR. PIFKO:</p> <p>13 Q. If there is no requirement that</p> <p>14 you not ship an order that's deemed to be</p> <p>15 suspicious, why would the company have agreed to</p> <p>16 undertake such a requirement?</p> <p>17 A. Because that was part of our</p> <p>18 negotiations in order to get our registration</p> <p>19 reinstated, was to implement a program that</p> <p>20 halted orders that we deemed to be suspicious.</p> <p>21 Q. Why would you have to agree to</p> <p>22 something that's not in the regulations?</p> <p>23 MR. NICHOLAS: Object to the</p> <p>24 form.</p>	<p style="text-align: right;">Page 24</p> <p>1 law that they were asking you to do, to halt the</p> <p>2 shipment of orders that you had identified as</p> <p>3 suspicious?</p> <p>4 MR. NICHOLAS: Object to the</p> <p>5 form.</p> <p>6 THE WITNESS: Yes.</p> <p>7 BY MR. PIFKO:</p> <p>8 Q. You did tell them that you</p> <p>9 thought that was wrong?</p> <p>10 A. During the negotiations, yes.</p> <p>11 Q. Okay. What specifically did you</p> <p>12 tell them?</p> <p>13 A. I told them that our requirement</p> <p>14 is to report suspicious orders, and the way we've</p> <p>15 been doing it for the previous 17 years was to</p> <p>16 report after the fact. And that has been the way</p> <p>17 we've been doing it for 17 years. We negotiated</p> <p>18 with DEA with the program in '98, which they were</p> <p>19 well aware that we were shipping the products --</p> <p>20 we were reporting them after we ship the</p> <p>21 products, and that was approved by DEA.</p> <p>22 So my previous negotiations with</p> <p>23 DEA, what the regulations state, there's no --</p> <p>24 nowhere that I could find that says you can't</p>
<p style="text-align: right;">Page 23</p> <p>1 THE WITNESS: It was the</p> <p>2 negotiation. That's what we agreed upon.</p> <p>3 BY MR. PIFKO:</p> <p>4 Q. It was something that the DEA</p> <p>5 asked you to agree to?</p> <p>6 A. Yes.</p> <p>7 Q. Did you tell the DEA they were</p> <p>8 wrong?</p> <p>9 MR. NICHOLAS: Object to the</p> <p>10 form.</p> <p>11 THE WITNESS: It was a part of</p> <p>12 the negotiation process of the areas that</p> <p>13 we would implement that would enhance our</p> <p>14 program. That was one of the items that</p> <p>15 we had discussed, in addition to others,</p> <p>16 was that we would not ship an order that</p> <p>17 we deemed to be suspicious.</p> <p>18 BY MR. PIFKO:</p> <p>19 Q. Were you one of the people who</p> <p>20 was negotiating the settlement agreement with the</p> <p>21 DEA?</p> <p>22 A. Yes.</p> <p>23 Q. And did you ever tell the DEA</p> <p>24 that you felt that wasn't a requirement under the</p>	<p style="text-align: right;">Page 25</p> <p>1 ship an order that has been reported as</p> <p>2 suspicious. In fact, it's the way it's been</p> <p>3 done.</p> <p>4 This was a change in the</p> <p>5 industry. No one else was stopping orders. We</p> <p>6 had never done it in the past. So again, that</p> <p>7 was my understanding.</p> <p>8 So in the negotiation process, I</p> <p>9 said, this is the way we've been doing it. This</p> <p>10 has been approved by DEA in the past. It's been</p> <p>11 inspected by DEA. Our -- DEA audits our</p> <p>12 distribution centers. And in all of our audits,</p> <p>13 they've never once said that you're not supposed</p> <p>14 to ship an order that you deem to be suspicious.</p> <p>15 So my -- that was my response into the</p> <p>16 negotiation was, I don't agree with that.</p> <p>17 Q. And what was their response when</p> <p>18 you said that?</p> <p>19 MR. NICHOLAS: Object to the</p> <p>20 form.</p> <p>21 THE WITNESS: I mean, do you want</p> <p>22 to go back and forth through the</p> <p>23 negotiations or -- I mean...</p> <p>24 BY MR. PIFKO:</p>

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1 Q. Well, I want you to tell me what  
2 they said in response to you saying that to them.  
3 MR. NICHOLAS: Same objection.  
4 THE WITNESS: They disagreed at  
5 that time.  
6 BY MR. PIFKO:  
7 Q. What did they say was the basis  
8 for their disagreement?  
9 MR. NICHOLAS: Object to the  
10 form.  
11 THE WITNESS: They wanted that  
12 order not to be shipped if it's deemed to  
13 be suspicious. I mean, that's what they  
14 said.  
15 BY MR. PIFKO:  
16 Q. They didn't tell you why?  
17 A. No.  
18 Q. And you just ended up agreeing to  
19 it?  
20 MR. NICHOLAS: Object to the  
21 form.  
22 THE WITNESS: In order to -- as  
23 part of the negotiation, that was an area  
24 that we agreed upon in order to get our

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1 license reinstated in Orlando, yes.  
2 BY MR. PIFKO:  
3 Q. Did you agree to anything  
4 specific related to internet pharmacies in the  
5 settlement agreement in order to get your license  
6 back or lift -- the suspension lifted at the  
7 Orlando facility?  
8 A. I don't recall.  
9 Q. You don't believe there was  
10 anything specific to internet pharmacies in the  
11 settlement agreement?  
12 A. I don't -- I don't recall.  
13 Q. Okay. The changes that you made  
14 in response to the settlement agreement with --  
15 that were made as a result of the suspension of  
16 the Orlando facility, those were systemic  
17 companywide changes. Correct?  
18 MR. NICHOLAS: Object to the  
19 form.  
20 Go ahead.  
21 THE WITNESS: Yes. Part of the  
22 negotiation was that, even though it was  
23 the Orlando distribution center's license  
24 that was suspended, that they wanted us

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1 to implement a program for all of our  
2 drug company distribution centers.  
3 BY MR. PIFKO:  
4 Q. They wanted you to make changes  
5 companywide. Correct?  
6 A. They wanted us to implement the  
7 program companywide, correct.  
8 Q. And that's what you did.  
9 Correct?  
10 A. Yes.  
11 Q. And the programs that you  
12 implemented, those weren't specific to internet  
13 pharmacies. Correct?  
14 A. The program was -- regardless of  
15 an internet pharmacy or not, I mean, if we  
16 identified an order that we deemed to be  
17 suspicious, we would not ship it and report it to  
18 DEA. So it was an internet pharmacy, that would  
19 apply.  
20 And then we have an additional  
21 due diligence process that was also negotiated --  
22 negotiated on the front end as well.  
23 Q. But that was for a broad array of  
24 customer types. Correct?

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1 A. Yeah, all retail pharmacies. All  
2 pharmacies licensed as retail pharmacies.  
3 Q. And the due diligence requirement  
4 you're saying that you -- didn't apply, however,  
5 to chain pharmacies. Correct?  
6 MR. NICHOLAS: Object to the  
7 form.  
8 THE WITNESS: Part of our  
9 negotiations was identifying the program  
10 and what was -- what aspects it would  
11 cover, would it include hospitals,  
12 Department of Defense. Chains were  
13 discussed. And part of the negotiation  
14 was that it was determined that a chain  
15 of ten or more stores would not be  
16 included in the due diligence process,  
17 still in the order monitoring process.  
18 BY MR. PIFKO:  
19 Q. This implementation of a shipping  
20 requirement or an agreement not to ship an order  
21 that had been identified as suspicious, that  
22 applied regardless of the customer type.  
23 Correct?  
24 A. Correct.

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1 Q. For all customers of  
2 AmerisourceBergen. Correct?  
3 A. Correct.  
4 Q. I'm handing you what was -- you  
5 said something -- before I get to that.  
6 You said something earlier that  
7 this shipping requirement wasn't anything anyone  
8 else was doing.  
9 Do you recall saying that a few  
10 minutes ago?  
11 A. I wasn't aware of any of the  
12 other companies that were stopping orders that  
13 they deemed to be suspicious.  
14 Q. Okay. And how do you know that  
15 no one else was doing that?  
16 MR. NICHOLAS: Object to the  
17 form.  
18 THE WITNESS: Because after  
19 the -- once we -- once we implemented our  
20 new program, we were the only ones that  
21 were halting orders that we deemed to be  
22 suspicious.  
23 BY MR. PIFKO:  
24 Q. Did you review the diversion

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1 control policies and practices of every other  
2 distributor?  
3 A. No, I did not.  
4 Q. So you don't really know if  
5 that's true or not?  
6 A. I -- only from -- through  
7 discussions.  
8 Q. Discussions with whom?  
9 A. My counterparts.  
10 Q. Which counterparts?  
11 A. The other distribution companies.  
12 Q. Which companies?  
13 A. Cardinal, McKesson, some of the  
14 smaller ones -- you know, it was at a HDA meeting  
15 where I did a presentation. There was  
16 discussions at that meeting.  
17 Q. When was that?  
18 A. 2007, I think. 2007, I believe.  
19 The end of 2007.  
20 Q. So at the end of 2007, you  
21 participated in an HDA meeting with other  
22 distributors, and you discussed who was -- had a  
23 shipping requirement and who didn't?  
24 MR. NICHOLAS: Object to the

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1 form.  
2 THE WITNESS: Let me clarify.  
3 It was a DEA conference in 2007.  
4 It wasn't a HDA conference. It was a DEA  
5 conference. Sorry about that.  
6 BY MR. PIFKO:  
7 Q. So regardless of the type of  
8 conference, you had a discussion with other  
9 distributors at the end of 2007 about diversion  
10 control issues, which included whether they were  
11 implementing a shipping requirement?  
12 A. I did a presentation on our  
13 program that had a requirement to not ship orders  
14 that we deemed to be suspicious, and they were  
15 present at the meeting.  
16 Q. And they told you that that  
17 wasn't a requirement that any of them had?  
18 A. I don't recall that being a  
19 specific statement. I don't remember the  
20 word-for-word conversation, but there was  
21 conversations about that process and whether it's  
22 legal and what the regulations imply, you know.  
23 Just general conversation.  
24 Q. As part of this conference or on

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1 the side after the conference?  
2 MR. NICHOLAS: Object to the  
3 form.  
4 THE WITNESS: I don't recall if  
5 there was a question and answer, if it  
6 came up during the question and answer or  
7 if it was immediately after or in between  
8 sessions. I don't recall.  
9 BY MR. PIFKO:  
10 Q. Do you recall any specific people  
11 with whom you had that discussion?  
12 A. No.  
13 Q. Do you recall any specific  
14 companies with whom you may have had that  
15 discussion?  
16 A. It wasn't like a point of  
17 discussion. It was common discussions about the  
18 requirement of -- you know, the regulations did  
19 not indicate that you have to stop orders  
20 before -- if you deemed them suspicious. And  
21 then, you know, our program had that and what was  
22 the basis upon our decision to do that.  
23 Q. And what did you tell them?  
24 A. It was in our negotiation with

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1 DEA.  
 2 Q. What did they tell you about  
 3 whether that wasn't required?  
 4 MR. NICHOLAS: I'm going to  
 5 object to the form.  
 6 THE WITNESS: I think -- I mean,  
 7 their -- again, that was the discussion.  
 8 It wasn't a long, lengthy debate. I  
 9 mean, we had our program in place, and  
 10 that was our program. I was explaining  
 11 what our program was.  
 12 BY MR. PIFKO:  
 13 Q. Other than that discussion, did  
 14 you have any other discussions with anyone about  
 15 whether other companies had a shipping  
 16 requirement?  
 17 A. I don't recall.  
 18 Q. So sitting here today, that's the  
 19 only such discussion that you recall as to  
 20 whether other companies had a shipping  
 21 requirement?  
 22 A. No. There was a lot of  
 23 discussions. I mean, through our organization,  
 24 HDA, we would meet and discuss regulatory

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1 requirements and processes.  
 2 Q. You participated regularly in HDA  
 3 meetings regarding DEA regulatory requirements  
 4 and diversion issues?  
 5 MR. NICHOLAS: Object to the  
 6 form.  
 7 THE WITNESS: I had -- and I'm  
 8 not sure what time frame you're talking  
 9 about, but I've been -- worked with HDA,  
 10 NWD and HDMA, all the different names  
 11 prior to that, throughout my career,  
 12 which consists of meetings, meetings with  
 13 DEA, meetings with HDA, joint meetings.  
 14 And discussions are about regulatory  
 15 requirements.  
 16 BY MR. PIFKO:  
 17 Q. Through meetings with the HDA,  
 18 you had discussions with other distributors about  
 19 regulatory requirements?  
 20 MR. NICHOLAS: Object to the  
 21 form.  
 22 THE WITNESS: We would have  
 23 discussions about general -- well, either  
 24 new regulatory requirements that were

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1 being proposed, whether it's in the state  
 2 or the government, existing  
 3 interpretation of the requirements, but  
 4 that would be something that we would  
 5 talk about.  
 6 BY MR. PIFKO:  
 7 Q. And one of the things you  
 8 discussed was the shipping requirement?  
 9 MR. NICHOLAS: Object to the  
 10 form.  
 11 THE WITNESS: Again, it depends  
 12 on what time frame. If it was after 2007  
 13 and our program had -- and again, we  
 14 never called it the shipping requirement.  
 15 Our requirement was that we did not ship  
 16 an order that we deemed to be suspicious.  
 17 And I would have probably had that  
 18 discussion after we implemented the  
 19 program.  
 20 BY MR. PIFKO:  
 21 Q. Before you implemented the  
 22 program, did you ever have a discussion with  
 23 other distributors about whether there was a  
 24 shipping requirement?

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1 A. No, not that I can recall.  
 2 Q. And so after you implemented that  
 3 under the settlement agreement, you believe that  
 4 you discussed the shipping requirement with other  
 5 distributors at the HDA meetings. Correct?  
 6 MR. NICHOLAS: Object to the  
 7 form, asked and answered.  
 8 THE WITNESS: I had a  
 9 presentation at the DEA conference where  
 10 I explained our program, which included  
 11 not shipping orders that we deemed to be  
 12 suspicious. And we've had -- we had  
 13 discussions at HDA meetings. I, you  
 14 know, can't point to how many times or  
 15 the specific conversation, but we would  
 16 have discussed that.  
 17 BY MR. PIFKO:  
 18 Q. What was the nature of the  
 19 discussions about the shipping requirement at HDA  
 20 meetings that you recall?  
 21 MR. NICHOLAS: Object to the  
 22 form.  
 23 THE WITNESS: I mean, that's  
 24 pretty much -- there's not much

<p style="text-align: right;">Page 38</p> <p>1 discussion. Either you ship it or you  2 don't. We don't ship orders that we deem  3 to be suspicious. That's the extent of  4 the discussion.  5 BY MR. PIFKO:  6 Q. And other companies told you that  7 they did?  8 MR. NICHOLAS: Object to the  9 form.  10 THE WITNESS: I don't know if  11 they ever said they did. I just know  12 what we did. And my conversation was  13 what ABC was doing and that was our  14 program.  15 BY MR. PIFKO:  16 Q. And did they ever say, why you're  17 doing that, we don't agree that's a requirement?  18 MR. NICHOLAS: Asked and  19 answered.  20 THE WITNESS: I don't know  21 exactly if that's how the conversation  22 went, but I'm sure there was questions of  23 people of why you're changing your  24 practices that you've been -- had in</p>	<p style="text-align: right;">Page 40</p> <p>1 Because I want to make sure I understand the  2 question on the table.  3 Q. Yeah. I'm just trying to --  4 that's what we do at depositions.  5 A. Yeah.  6 Q. You said that no one else had a  7 requirement of -- that they would not ship an  8 order that they deemed to be suspicious. And I'm  9 trying to understand the basis for your saying  10 that.  11 MR. NICHOLAS: Object to the  12 form. I think you're mischaracterizing  13 the testimony.  14 THE WITNESS: As I explained,  15 that prior to our implementing the  16 program that stopped orders to be  17 suspicious, the practice had always been  18 that you report suspicious orders -- you  19 have to have a system to report  20 suspicious orders. That reporting was  21 always after the order was shipped.  22 You know, you're asking me, did I  23 have discussions in 1990, in '91, '92. I  24 don't -- I'm sure I probably did. '95,</p>
<p style="text-align: right;">Page 39</p> <p>1 place for the past 17 years.  2 BY MR. PIFKO:  3 Q. Did anyone ever say you should  4 fight that, it's not a requirement under the law?  5 A. I don't recall that discussion.  6 Q. So to your knowledge, no one ever  7 said that?  8 MR. NICHOLAS: Object to the  9 form.  10 THE WITNESS: I -- again, not  11 that I recall.  12 BY MR. PIFKO:  13 Q. Any other way that you believe  14 you would know whether all -- other distributors  15 didn't have that requirement?  16 MR. NICHOLAS: Object to the  17 form.  18 THE WITNESS: No, not that I can  19 think of.  20 BY MR. PIFKO:  21 Q. So this DEA meeting and  22 discussions you had at the HDA are the only such  23 discussions?  24 A. Can you ask me that question?</p>	<p style="text-align: right;">Page 41</p> <p>1 2000, 2004, possibly. So that was the  2 general knowledge of the program when I  3 started with the company in 1990 until  4 2007 when they said that we wanted you to  5 implement a new process to where you  6 don't ship it.  7 Prior to that, my negotiations  8 with DEA, working on a suspicious order  9 program, it never even came up in the  10 conversation. DEA never mentioned a  11 shipping requirement or stopping the  12 order. We tested it for two years with  13 multiple DEA offices in the field, went  14 to Washington, DC, and Washington, DC  15 said, we approve your program. There was  16 no mention of shipping requirements, no  17 mention of stopping orders.  18 So that was my belief, my  19 understanding. If DEA -- if there was --  20 if DEA thought that there should be a  21 shipping requirement, I thought they  22 would have brought that in the  23 negotiations in the '90s when we're  24 devising the program. They would have</p>

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1 said, hey, Cardinal, McKesson, they're  
2 stopping the orders, why don't you guys  
3 enter that into your system. Never came  
4 into the discussion.  
5 And again, this was a two-year  
6 process. This isn't, you know, hey, can  
7 we do this.  
8 And so never a shipping  
9 requirement was mentioned. We get to  
10 2007. We have an immediate suspension.  
11 We come down there, and they put on the  
12 table, we want you to stop orders that we  
13 deem to be suspicious. And my first  
14 response is, where is that in the  
15 regulations and why wasn't that ever  
16 brought up in 1998 through our  
17 negotiation, why hasn't it ever been  
18 mentioned in the DEA audit, why isn't  
19 it -- we've never had discussions about  
20 that. So --  
21 BY MR. PIFKO:  
22 Q. What did they say in response to  
23 that question?  
24 MR. NICHOLAS: Let him finish.

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1 THE WITNESS: We want to  
2 implement -- we want industry to stop  
3 shipping orders that they deem to be  
4 suspicious. And in order for you to get  
5 your license back, we want you to  
6 implement that in your program.  
7 Now, you know, that was the  
8 agreement we went in the negotiations,  
9 and that was what we implemented after  
10 that. We did, ABC.  
11 BY MR. PIFKO:  
12 Q. When you said this was never  
13 brought up before, what did they say about that?  
14 A. This is what we want to do now.  
15 They didn't say anything about that.  
16 Q. When you said this wasn't a  
17 requirement in the regulations, what did they say  
18 in response to that?  
19 A. They didn't say anything.  
20 Q. When you say that you got a  
21 system approved in Washington, when was that?  
22 A. 1998, I believe.  
23 Q. And who specifically approved  
24 that?

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1 A. The chief of the diversion unit  
2 at DEA.  
3 Q. Do you have a name?  
4 A. Pat Good.  
5 Q. Was --  
6 A. I believe Pat Good was the chief  
7 at the time.  
8 Q. That was something that was in  
9 writing?  
10 A. Yes.  
11 Q. I'm going to hand you what was  
12 marked in your deposition before, but I think  
13 there might have been some redactions, so I'm  
14 going to remark it.  
15 - - -  
16 (Deposition Exhibit No. Zimmerman  
17 V2-1, PowerPoint entitled "Regulatory  
18 Compliance Update Meeting of the Board of  
19 Directors August 10, 2017," Bates stamped  
20 ABDCMDL00273425, was marked for  
21 identification.)  
22 - - -  
23 BY MR. PIFKO:  
24 Q. As Zimmerman Volume 2, Number 1.

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1 A. Thank you.  
2 Q. For the record, this is a  
3 document Bates labeled ABDCMDL00273425. And it  
4 was produced natively, so it's the same Bates  
5 number on every page.  
6 MR. MAHADY: Can we go off the  
7 record for one second?  
8 Can I talk to you outside real  
9 quick?  
10 MR. PIFKO: Sure.  
11 THE VIDEOGRAPHER: Going off the  
12 record, 2:12 p m.  
13 - - -  
14 (A discussion off the record  
15 occurred.)  
16 - - -  
17 THE VIDEOGRAPHER: Back on record  
18 at 2:13 p m.  
19 BY MR. PIFKO:  
20 Q. Okay. So I just want to ask you  
21 about a specific page on this document that we  
22 had to get a court order to be able to ask you  
23 about this after your deposition, or to have  
24 access to this part of the document.

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1 So if you want to turn to page 16  
2 of the PowerPoint, there's numbers on the left  
3 corner.  
4 MR. NICHOLAS: I'll object to the  
5 commentary, but I will ask -- I'm not  
6 going to say he has to read the whole  
7 thing again, but let him at least flip  
8 through it to refamiliarize himself with  
9 the document.  
10 BY MR. PIFKO:  
11 Q. Take your time. I just want to  
12 ask you about something in the comments on the  
13 page that has slide 16 on it.  
14 A. (Reviewing document.)  
15 Okay.  
16 Q. There's a part here that's in  
17 color in red on the document.  
18 Are you on page 16 there?  
19 A. I am.  
20 Q. Okay. So it says here, "We are  
21 trying to make the best decisions we can to  
22 protect the public while assuring legit customers  
23 get their meds -- that is all the diversion  
24 control function is concerned with."

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1 Do you see that?  
2 A. I see that.  
3 Q. Do you agree with that statement?  
4 MR. NICHOLAS: Object to the  
5 form.  
6 THE WITNESS: I don't know who  
7 wrote this or what the inference is to,  
8 but the general -- the general assumption  
9 that we want to make sure we have  
10 medications available for those that need  
11 them, I agree with. And we have  
12 processes in place to, you know, secure  
13 the supply chain, I agree with that. But  
14 I don't know who wrote it. I'm not sure  
15 what the context is.  
16 BY MR. PIFKO:  
17 Q. Okay. But what about the part  
18 about part of the diversion control function  
19 being that you -- while you want to protect the  
20 public while also assuring that customers get  
21 their medicines, do you agree about that part of  
22 it?  
23 MR. NICHOLAS: Object to the  
24 form.

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1 Go ahead.  
2 THE WITNESS: Again, our  
3 diversion control program is just one  
4 facet of our regulatory program and our  
5 CS array of security to protect the  
6 company in making sure that the  
7 medications that we buy are legitimate,  
8 are stored and distributed appropriately,  
9 and are available to the pharmacies when  
10 they place an order. And that is how our  
11 process works.  
12 I don't know the person who  
13 stated that and what they meant by that,  
14 but that's how we ensure the integrity of  
15 the supply chain, ensuring that patients  
16 have medicines that's available to them  
17 that are written by doctors and that  
18 those medications have been stored and  
19 distributed safely to a licensed  
20 pharmacy.  
21 BY MR. PIFKO:  
22 Q. Okay. All I'm trying to ask you,  
23 though, is in part of carrying out those duties,  
24 if you believe that part of the idea of

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1 preventing diversion is to help protect the  
2 public from the consequences of a controlled  
3 substance that gets diverted.  
4 MR. NICHOLAS: Object to the  
5 form.  
6 Go ahead.  
7 THE WITNESS: And I know we spoke  
8 this -- about this last time. It depends  
9 how that drug is diverted. And again,  
10 our role in the supply chain that adds  
11 protections to the public is to ensure  
12 that the medications are available and  
13 they have been stored and safely  
14 distributed to a licensed dispenser.  
15 That is our obligation, and that is how  
16 our program is built.  
17 BY MR. PIFKO:  
18 Q. Okay. When you say safely  
19 distributed --  
20 MR. NICHOLAS: Let him finish.  
21 THE WITNESS: Safely distributed  
22 to a dispenser, a licensed location.  
23 BY MR. PIFKO:  
24 Q. Right. So when you say safely

<p style="text-align: right;">Page 50</p> <p>1 distributed, what do you mean, safely  2 distributed?  3 A. Make sure that the transportation  4 companies that we use have been background  5 checked and that the product has been stored  6 appropriately and is delivered to the pharmacy  7 where the pharmacist signs for the product.  8 Q. Right. Because you don't want a  9 substance to be diverted from legitimate medical  10 channels. Correct?  11 A. Not while it's under our  12 distribution license. Right? So when we -- as  13 soon as we receive the product, it's under our  14 control. And the way the federal regulations are  15 written, we're responsible to make sure we have  16 the adequate recordkeeping, storage requirements,  17 select drivers, ensure that the pharmacies are  18 appropriately licensed. And so in that -- from  19 the time we sign for it till the time the  20 pharmacy signs for it, we want to make sure that  21 product is not diverted. Correct.  22 Q. And you understand that these are  23 substances that have a high potential for abuse  24 that you're distributing. Correct?</p>	<p style="text-align: right;">Page 52</p> <p>1 obligation to make sure we only sell to licensed  2 entities.  3 - - -  4 (Deposition Exhibit No. Zimmerman  5 V2-2, Email chain, top one dated 16 Sep  6 2014, Bates stamped ABDCMDL00277299  7 through ABDCMDL00277301, was marked for  8 identification.)  9 - - -  10 BY MR. PIFKO:  11 Q. I'm handing you what's marked as  12 Zimmerman Volume 2, Exhibit 2.  13 A. Thank you.  14 Q. For the record, it's a  15 couple-page email, Bates labeled ABDCMDL00277299  16 through 301.  17 Take a moment to review that.  18 Let me know when you're done.  19 A. (Reviewing document.)  20 Okay.  21 Q. Okay. I want to turn your  22 attention to -- well, have you seen this before?  23 A. My name is on it. I don't  24 specifically recall.</p>
<p style="text-align: right;">Page 51</p> <p>1 MR. NICHOLAS: Object to the  2 form.  3 THE WITNESS: We distribute  4 all -- all medications, over the counter.  5 A small subset of the product that we  6 sell and distribute are controlled  7 substances, and a smaller subset are  8 Schedule II, which have a higher  9 potential for abuse. Correct.  10 BY MR. PIFKO:  11 Q. Okay. Well, Schedule II  12 substances have a high potential for abuse.  13 Agree?  14 A. Correct.  15 Q. And when you distribute those,  16 you want to make sure they don't get into the  17 wrong hands so that they're abused. Correct?  18 A. We want to make sure all of our  19 product that we sell doesn't get in the wrong  20 hands.  21 Q. But that includes Schedule II  22 controlled substances?  23 A. We want to make sure we sell to  24 licensed pharmacies. Correct. We have an</p>	<p style="text-align: right;">Page 53</p> <p>1 Q. This is an email that -- a  2 portion of which you wrote. Correct?  3 A. Yes.  4 Q. It says in the middle of the  5 first page, there's an email from you dated  6 September 16, 2014 to Rita Norton, Anne Oswalt,  7 copying Steve Mays and David May. The subject is  8 "Update."  9 Do you see that?  10 A. Uh-huh.  11 Q. Do you agree this is an email you  12 wrote?  13 A. It appears to be, yes.  14 Q. I want to direct your attention  15 to language that starts on the bottom of the  16 first page and continues onto the second page.  17 You say, "Doesn't the dispensing  18 of any controlled substance come with the  19 foreseeable risk of adverse health consequences  20 or misuse of the controlled substances?"  21 Do you see that?  22 MR. NICHOLAS: I'm sorry, where  23 are you?  24 THE WITNESS: Yeah, where are</p>

<p style="text-align: right;">Page 54</p> <p>1 you?</p> <p>2 BY MR. PIFKO:</p> <p>3 Q. You can look at the screen in</p> <p>4 front of you to help you, too.</p> <p>5 A. Oh.</p> <p>6 MR. NICHOLAS: I see. Yep.</p> <p>7 THE WITNESS: Yes, I see that.</p> <p>8 BY MR. PIFKO:</p> <p>9 Q. You said that. Correct?</p> <p>10 A. It appears I wrote that, yes.</p> <p>11 Q. And you say -- you then say,</p> <p>12 "Dispensed" -- on the second page, "Dispensed</p> <p>13 controlled substances have the 'foreseeable risk'</p> <p>14 of: being given to a family member that they</p> <p>15 were not originally prescribed for (husband,</p> <p>16 wife, et cetera); removed from the medicine</p> <p>17 cabinet by a family member or friend; the patient</p> <p>18 can become addicted to the prescribed drug;</p> <p>19 stolen; et cetera; all of which are foreseeable</p> <p>20 and could have the adverse health consequences or</p> <p>21 death due to the abuse or misuse of the</p> <p>22 controlled substances."</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 56</p> <p>1 out a fact that these medications have</p> <p>2 that has nothing to do with how we handle</p> <p>3 our regulatory responsibilities within</p> <p>4 the supply channel.</p> <p>5 BY MR. PIFKO:</p> <p>6 Q. Okay. But you agree that these</p> <p>7 are all foreseeable risks with the controlled</p> <p>8 substance. Correct?</p> <p>9 MR. NICHOLAS: Object to the</p> <p>10 form.</p> <p>11 THE WITNESS: I believe that's</p> <p>12 probably -- again, I shouldn't say</p> <p>13 probably, but that's why they're a</p> <p>14 controlled substance.</p> <p>15 BY MR. PIFKO:</p> <p>16 Q. Right. Because all these things</p> <p>17 are potential consequences. I mean, you're</p> <p>18 saying it's obviously foreseeable, is what you're</p> <p>19 saying.</p> <p>20 MR. NICHOLAS: Object to the</p> <p>21 form.</p> <p>22 THE WITNESS: Not obviously</p> <p>23 foreseeable. I'm stating that there's a</p> <p>24 reason why we store them in vaults and we</p>
<p style="text-align: right;">Page 55</p> <p>1 Q. You said that. Correct?</p> <p>2 A. That's what I wrote.</p> <p>3 Q. What was the basis for saying</p> <p>4 that at the time?</p> <p>5 MR. NICHOLAS: Object to the</p> <p>6 form.</p> <p>7 THE WITNESS: I think the basis</p> <p>8 of the comment was that we have no</p> <p>9 control -- all these things I indicate,</p> <p>10 we have no control over that. We</p> <p>11 distribute to the licensed individuals,</p> <p>12 but there's -- the risk is -- you know,</p> <p>13 how the doctor prescribes it, if they</p> <p>14 don't describe it -- prescribe it</p> <p>15 appropriately, if the pharmacy isn't</p> <p>16 monitoring it, if the patient doesn't</p> <p>17 monitor it appropriately, if somebody has</p> <p>18 it in their medicine cabinet and somebody</p> <p>19 steals it, there's inherent risk to that</p> <p>20 product. That's why it's important that</p> <p>21 everybody follows the regulatory</p> <p>22 requirements.</p> <p>23 We have our requirements that</p> <p>24 have nothing to do -- I'm just pointing</p>	<p style="text-align: right;">Page 57</p> <p>1 have specific recordkeeping requirements,</p> <p>2 because of their potential for abuse.</p> <p>3 BY MR. PIFKO:</p> <p>4 Q. And all --</p> <p>5 A. Which implies that these</p> <p>6 products, that if somebody dispenses a Schedule</p> <p>7 II product, somebody is going to die because</p> <p>8 they're going to misuse it or it's going to get</p> <p>9 stolen, I don't agree with that.</p> <p>10 Q. Well, if there's a -- it's a</p> <p>11 foreseeable risk, though, that all the these</p> <p>12 things could happen. That's exactly what you</p> <p>13 said.</p> <p>14 A. They could happen.</p> <p>15 Q. I want to ask you about the New</p> <p>16 Jersey United States Attorney investigation.</p> <p>17 Are you familiar with that?</p> <p>18 A. In what context?</p> <p>19 Q. You're aware that there was a</p> <p>20 criminal investigation of the company being</p> <p>21 conducted by the United States Attorney.</p> <p>22 Correct?</p> <p>23 A. I'm under -- yes. I have that</p> <p>24 understanding, that there was an investigation by</p>

<sup>1</sup> the US Attorney's Office. Correct.

2 Q. That was a stressful situation  
3 for you?

4       A.   It's a situation that I have to  
5 deal with. Correct.

A horizontal bar chart titled 'U.S. should take action to address climate change'. The y-axis lists age groups: 18-29, 30-49, 50-64, 65+, and 'All adults'. The x-axis shows percentages from 0 to 100. For each age group, there are two bars: a blue bar for 'Total' and a red bar for 'Men'. The data is as follows:

Age Group	Total (%)	Men (%)
18-29	87	85
30-49	85	83
50-64	83	81
65+	79	77
All adults	82	80

Group	U.S. should take action	U.S. should take strong action
All respondents	95%	90%
Male	94%	89%
Female	96%	91%
18-29	97%	93%
30-49	95%	90%
50-69	94%	89%
70+	93%	88%

Relationship Duration	Percentage of Respondents
Less than 1 year	45%
1 to 2 years	35%
3 to 4 years	20%
5 to 6 years	10%
7 to 8 years	5%
9 to 10 years	5%

6 BY MR. PIFKO:

7 Q. Specific -- I'm not saying that  
8 you haven't had other stressful times in your  
9 life and there's not -- many causes of stress.

10 All I'm asking is that dealing  
11 with that United States Attorney's investigation  
12 was a stressful situation for you.

13 Would you agree?

14 MR. NICHOLAS: Same objection.  
15 Same objection.

16 THE WITNESS: I mean, it was --  
17 there was some stress involved, but I  
18 mean, it wasn't, you know -- again, it  
19 wasn't anything -- anything different  
20 than my regular course of work.

21

[REDACTED]

[REDACTED]

[REDACTED]

Response	Percentage
U.S. should take action	10%
U.S. should take action	20%
U.S. should take action	30%
U.S. should take action	40%
U.S. should take action	50%
U.S. should take action	60%
U.S. should take action	70%
U.S. should take action	80%
U.S. should take action	90%
U.S. should not take action	10%
U.S. should not take action	20%
U.S. should not take action	30%
U.S. should not take action	40%
U.S. should not take action	50%
U.S. should not take action	60%
U.S. should not take action	70%
U.S. should not take action	80%
U.S. should not take action	90%



Page 66

[REDACTED]

Page 67

[REDACTED]

Page 68

[REDACTED]

6 Q. Did you ever see the subpoena  
7 yourself?  
8 A. I don't recall.  
9 Q. You don't know either way?  
10 A. I don't know either way. I don't  
11 recall if I saw the subpoena or not.  
12 Q. Did you spend a lot of time  
13 dealing with the subpoena?  
14 A. Again, my conversations and  
15 actions were all done under the direction of  
16 counsel.  
17 Q. Okay. That's not my question,  
18 though. You got to answer my question.  
19 I asked you if you spent a lot of  
20 time dealing with the subpoena.  
21 MR. NICHOLAS: Object to the  
22 form.  
23 THE WITNESS: So it was a long,  
24 drawn-out process. So, you know, I

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1 don't -- I mean, it was years, years of  
2 process. So again, I'm not sure how to  
3 gauge that, whether it's -- your question  
4 is, did we produce a lot. I don't know  
5 if over five years, I would -- a lot,  
6 yes, I assume we did.  
7 BY MR. PIFKO:  
8 Q. Okay.  
9 A. I can't tell you exactly what all  
10 was produced, but, you know, that would all be  
11 through the legal department.  
12 Q. So it's your testimony that you  
13 dealt with the nature of this investigation over  
14 the course of five years?  
15 A. I don't --  
16 MR. NICHOLAS: Object to the  
17 form.  
18 Go ahead.  
19 THE WITNESS: I don't know the  
20 course. It initiated I believe in 2012,  
21 and that's what I know.  
22 BY MR. PIFKO:  
23 Q. And when -- is it closed, to your  
24 knowledge?

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1 A. I don't know.  
2 Q. Are you still dealing with it?  
3 MR. NICHOLAS: Object to the  
4 form.  
5 THE WITNESS: In what -- in what  
6 way?  
7 BY MR. PIFKO:  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 THE WITNESS: Yeah. I wouldn't  
23 feel comfortable answering that question.  
24 BY MR. PIFKO:

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1 Q. I am not asking you the substance  
2 of the discussions. I'm asking you the amount of  
3 time you spent. You need to answer that  
4 question.  
5 MR. NICHOLAS: If you know.  
6 Object to the form.  
7 MR. PIFKO: Stop "if you know,"  
8 Bob. Stop.  
9 MR. NICHOLAS: It's the first  
10 time I've said it all day, Mark.  
11 MR. PIFKO: Stop.  
12 MR. NICHOLAS: Don't say --  
13 MR. PIFKO: You've got a problem  
14 with coaching witnesses. Okay? You need  
15 to stop. I'm done with it. You say that  
16 one more time, we're going -- we're going  
17 to be done.  
18 MR. NICHOLAS: Good. Go ahead.  
19 MR. PIFKO: I'm going to bring  
20 him back again. Okay?  
21 MR. NICHOLAS: Just --  
22 MR. PIFKO: We're going to go  
23 this over and over again.  
24 MR. NICHOLAS: Ask your -- you're

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1 badgering the witness.  
2 MR. PIFKO: No, I'm not. You're  
3 trying to -- you coached him into not  
4 answering this question. He knows all  
5 about this thing. He just testified that  
6 he dealt with it for five years, and  
7 you're trying to get him to avoid talking  
8 about it.  
9 MR. NICHOLAS: Okay. That's  
10 offensive. I object to that. Don't talk  
11 to me that way.  
12 MR. PIFKO: And we're not killing  
13 this time.  
14 MR. NICHOLAS: Ask him your --  
15 MR. PIFKO: We're not killing  
16 this time you're interrupting for the  
17 record. Okay?  
18 MR. NICHOLAS: I don't care if  
19 you count this time or not. I don't care  
20 if you count these 30 seconds or not. Go  
21 ahead and ask your question.  
22 MR. PIFKO: Okay.  
23 BY MR. PIFKO:  
24 Q. Sir, I'm trying to get an

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1 accurate answer from you. Okay?  
2 I understand that your counsel is  
3 instructing you not to talk about the substance  
4 of discussions you had with counsel. I'm not  
5 asking you about that. Okay?  
6 I just want to know how much time  
7 in your day over the course of years that this  
8 was going on that you were dealing with this.  
9 MR. NICHOLAS: Object to the  
10 form.  
11 THE WITNESS: Some days it would  
12 be an entire day. It may go two months  
13 without any time. It may be three days  
14 at a time, then it may go months  
15 without -- again, you're asking me to  
16 give you an answer over a five-year  
17 period of how much time I worked on it.  
18 I can't -- if -- I don't know.  
19 BY MR. PIFKO:  
20 Q. That's all the kind of answer I'm  
21 looking at.  
22 So you believe it was roughly a  
23 five-year period --  
24 A. I just --

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1 Q. -- and that's about the rough  
2 time periods in any particular day that you might  
3 have dealt with it?  
4 MR. NICHOLAS: Object to the  
5 form.  
6 THE WITNESS: I threw out five  
7 years. I don't even -- I don't know the  
8 investigation's closed. I don't know the  
9 current status. It started in 2012. I  
10 haven't done much in the last, you know,  
11 bit. So I don't -- I don't know.  
12 BY MR. PIFKO:  
13 Q. When was the last time you recall  
14 having significant involvement with it?  
15 A. It's been a while. I don't -- I  
16 wouldn't feel comfortable picking a date.  
17 Q. More than a year?  
18 A. I don't think it's been -- I  
19 don't think it's that long. I don't know.  
20 Q. So sometime less than a year was  
21 the last time you had significant involvement?  
22 MR. NICHOLAS: Object to the  
23 form.  
24 THE WITNESS: It could have been

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1 a year, it could have been six months.  
2 Again, my time -- I may -- I don't know.  
3 I don't know. It wasn't last week or  
4 last month, I know that.  
5 BY MR. PIFKO:  
6 Q. Okay. But it's 2019 right now.  
7 A. It wasn't 2019.  
8 Q. So the last time you had  
9 significant involvement was in 2019?  
10 A. No, no, no. It was not in 2019.  
11 Q. Okay. It was sometime in 2018?  
12 MR. NICHOLAS: Object to the  
13 form.  
14 THE WITNESS: Again, I don't know  
15 exactly.  
16 BY MR. PIFKO:  
17 Q. Roughly, I'm just asking you.  
18 MR. NICHOLAS: Object to the  
19 form.  
20 THE WITNESS: I can't answer that  
21 question. I don't know what you're  
22 considering considerable time. And I  
23 can't -- is considerable time five hours,  
24 five days, five months?

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1 And again, you're asking me to  
2 say how much -- how long of -- what's a  
3 significant amount of time? To some  
4 people, a significant amount of time  
5 might be an hour-and-a-half for this  
6 deposition.  
7 BY MR. PIFKO:  
8 Q. And you're --  
9 A. But I'm just saying, what's a  
10 significant amount of time.  
11 Q. In your understanding of the word  
12 "significant," when was the last time that you  
13 had a meaningful day where you dealt with the New  
14 Jersey US Attorney's investigation?  
15 MR. NICHOLAS: Object to the  
16 form.  
17 THE WITNESS: It's been a while.  
18 BY MR. PIFKO:  
19 Q. Okay.  
20 A. It's been a while, more than a  
21 year.  
22 Q. But less than two years?  
23 MR. NICHOLAS: Object to the  
24 form.

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1 THE WITNESS: Now, I can't --  
2 now -- you got me more than a year. I  
3 don't know.  
4 BY MR. PIFKO:  
5 Q. I'm just trying to get an  
6 estimate. Okay?  
7 A. I'm being completely honest with  
8 you.  
9 Q. Okay.  
10 A. I don't know --  
11 Q. Okay. Fair enough.  
12 A. -- if it was a year, 14 months,  
13 16 months. I don't know.  
14 MR. PIFKO: Okay. We're going to  
15 take a short break.  
16 THE VIDEOGRAPHER: Going off the  
17 record, 2:42 p.m.  
18 - - -  
19 (A recess was taken from  
20 2:42 p.m. to 2:57 p.m.)  
21 - - -  
22 THE VIDEOGRAPHER: Back on  
23 record, 2:57 p.m.  
24 BY MR. PIFKO:

<p style="text-align: right;">Page 78</p> <p>1 Q. Welcome back.</p> <p>2 A. Yeah.</p> <p>3 Q. AmerisourceBergen for a lengthy</p> <p>4 period of time had thresholds as a feature of its</p> <p>5 order monitoring program. Correct?</p> <p>6 A. That was one component. Correct.</p> <p>7 Q. And those thresholds were set at</p> <p>8 300 percent of the customer's ordering history?</p> <p>9 A. They were -- in what time frame?</p> <p>10 Q. Well, for a majority of the time</p> <p>11 frame.</p> <p>12 A. So in the '90s, it was three for</p> <p>13 I think ARCOS items and possibly a multiplier of</p> <p>14 six for schedules -- nonreportables, so III, IVs</p> <p>15 and Vs.</p> <p>16 And then when we entered into our</p> <p>17 program in '98, they were a lot more flexible.</p> <p>18 But there was a baseline threshold trigger of</p> <p>19 about three times the average of the pharmacy's</p> <p>20 based upon what classification they were in.</p> <p>21 Q. And what was the basis for using</p> <p>22 that 300 percent?</p> <p>23 MR. NICHOLAS: Object to the</p> <p>24 form.</p>	<p style="text-align: right;">Page 80</p> <p>1 V2-4, Email chain, top one dated 30 Mar</p> <p>2 2011, Bates stamped ABDCMDL00267230</p> <p>3 through ABDCMDL00267232, was marked for</p> <p>4 identification.)</p> <p>5 - - -</p> <p>6 BY MR. PIFKO:</p> <p>7 Q. You remember when we talked</p> <p>8 before, we were talking about the Chemical</p> <p>9 Handlers Manual?</p> <p>10 A. Yes. We talked about that.</p> <p>11 Q. Do you remember discussing that?</p> <p>12 A. Yes.</p> <p>13 Q. Do you remember talking about how</p> <p>14 the three times the multiplier was used because</p> <p>15 of language in there?</p> <p>16 A. That was part of the discussion</p> <p>17 when we were negotiating with DEA of the three</p> <p>18 times. At the time, that was the -- on the DEA's</p> <p>19 website, identifying a potential suspicious order</p> <p>20 for listed chemicals was three times. And that</p> <p>21 was just another element of the discussions.</p> <p>22 Q. I've handed you a three-page</p> <p>23 email Bates labeled ABDCMDL00267230 through 32.</p> <p>24 There's various discussion here, but I just</p>
<p style="text-align: right;">Page 79</p> <p>1 THE WITNESS: So when I came on</p> <p>2 board in 1990, that was already the --</p> <p>3 and I'm not sure where that came from,</p> <p>4 but that was the number that we had used.</p> <p>5 That was the number we used when we</p> <p>6 started negotiating the new program with</p> <p>7 DEA and worked with them for years.</p> <p>8 Again, there was no discussion of</p> <p>9 four or five or two. That was the</p> <p>10 threshold that we were working with DEA</p> <p>11 for two years with, and that was the one</p> <p>12 that we had.</p> <p>13 Now, offices had the ability to</p> <p>14 change that triggering number. And then</p> <p>15 in 2007 we devised our program. One</p> <p>16 more -- once again, when we were</p> <p>17 designing the program, negotiating with</p> <p>18 DEA again, the trigger point for</p> <p>19 identifying an order of interest was</p> <p>20 three -- was three times based on the</p> <p>21 average of the category they were in, the</p> <p>22 customer.</p> <p>23 - - -</p> <p>24 (Deposition Exhibit No. Zimmerman</p>	<p style="text-align: right;">Page 81</p> <p>1 wanted to, again, direct your attention to a</p> <p>2 couple specific statements that you have in here</p> <p>3 about the thresholds.</p> <p>4 A. (Reviewing document.)</p> <p>5 Okay.</p> <p>6 Q. All right. So you comment here</p> <p>7 on the first page. In bullet point 2, you say,</p> <p>8 "Threshold levels are already 300% over average."</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. What did you mean by that?</p> <p>12 A. The trigger for our program is</p> <p>13 300 -- three times the average of the</p> <p>14 classification of the pharmacy's -- so the</p> <p>15 pharmacies are broken into categories. And that</p> <p>16 category takes the average of all pharmacies, and</p> <p>17 then the multiplier 3 is put on there to trigger</p> <p>18 anywhere that hits that threshold.</p> <p>19 Q. But the point that you're making</p> <p>20 is that it's already 300 percent over. There's</p> <p>21 already a lot of buffer in there. Agree?</p> <p>22 MR. NICHOLAS: Object to the</p> <p>23 form.</p> <p>24 Go ahead.</p>

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1 THE WITNESS: Again, that was  
2 the -- that was the agreed-upon trigger  
3 that we picked. Because you're going  
4 to -- of course, you know, through the  
5 averages, you're get customers at the top  
6 of that range that order more and  
7 depending on the type of patients they  
8 serve. There's a lot of different  
9 variables that creates, even within the  
10 category, different levels. So  
11 300 percent was the triggering level.  
12 And that's what it says there.  
13 BY MR. PIFKO:  
14 Q. Well, let's look at a little  
15 further down on the page. There's a section here  
16 you say, "First: When an order is 'just 3% or  
17 6%' over its threshold...it is actually 303...or  
18 306% over...because we build a 300% float into  
19 each threshold."  
20 Do you see that part of the  
21 email?  
22 A. I see that, yes.  
23 Q. The point is -- you're trying to  
24 make there is, there's a lot of extra room in the

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1 threshold. Agree?  
2 MR. NICHOLAS: Object to the  
3 form.  
4 THE WITNESS: No.  
5 BY MR. PIFKO:  
6 Q. When something is over, it's not  
7 just over a little bit, you're actually a lot  
8 over the average.  
9 MR. NICHOLAS: Object to the  
10 form.  
11 THE WITNESS: They're over the  
12 average. But again, it's customer  
13 specific. That's just the triggering  
14 event to then review the characteristics  
15 of that order on top of that. But -- so  
16 3 percent would be 303. Just as I state,  
17 it's --  
18 BY MR. PIFKO:  
19 Q. It's actually 306 and 318. Your  
20 math there is incorrect.  
21 But the point you're trying to  
22 make there is that when something is 1 percent  
23 over or 2 percent over, it's not just 1 percent  
24 over, it's actually 303 percent over. Agreed?

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1 MR. NICHOLAS: Object. Object to  
2 the predicate to the question and the  
3 commentary on the math. And object to  
4 the form.  
5 THE WITNESS: That's the  
6 statement. That's the statement I have.  
7 BY MR. PIFKO:  
8 Q. What are you trying to  
9 communicate there when you say when an order is  
10 just 3 or 6 percent over, it's actually 303 or  
11 306 percent? What are you trying to communicate  
12 by saying that?  
13 MR. NICHOLAS: Object to the  
14 form.  
15 THE WITNESS: Exactly what I  
16 state there. I mean, there's not much  
17 commentary to expand on.  
18 BY MR. PIFKO:  
19 Q. That it's not a little bit over,  
20 it's 303 or 306 percent over. Correct?  
21 MR. NICHOLAS: Object to the  
22 form.  
23 THE WITNESS: Yeah. It's  
24 3 percent over the threshold, but --

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1 which is already established at three  
2 times. Correct.  
3 BY MR. PIFKO:  
4 Q. Part of the reason that you have  
5 that threshold is so that you won't interrupt the  
6 customer's business. Correct?  
7 A. It's the -- so the threshold has  
8 been -- so the threshold was in place before we  
9 blocked orders. So the threshold was always  
10 3 percent, even when we weren't stopping orders.  
11 So for the first 17 years, when the agreed-upon  
12 practice with DEA was that you reported  
13 suspicious after and we wanted you to report  
14 anything over 300 -- three times the average of  
15 that category, that was how it was done. There  
16 was no impact to the customer, because it was  
17 reported after the fact.  
18 So the threshold trigger has  
19 nothing to do with the impact of the -- on the  
20 customer. That's always been the trigger,  
21 regardless of whether we stopped orders or  
22 released orders.  
23 Q. So even in the time period when  
24 you stopped the orders, it's your testimony that

<p style="text-align: right;">Page 86</p> <p>1 the threshold has no design on not interrupting 2 the supply chain? 3 A. Well, again, the whole purpose of 4 the threshold was to provide some type of 5 triggering event, because we process the amount 6 of volume that goes through our system. And this 7 was the agreed-upon mechanism that we negotiated 8 with DEA as the triggering event. Of course, 9 patient care is -- we want to make sure that the 10 patients have product that they need when they 11 come in for their -- when they get a prescription 12 filled. So part of that is so you don't just 13 have a million orders flagging that aren't 14 suspicious or potentially suspicious. 15 Q. You agree that your customers are 16 valued business partners, is a statement that the 17 company makes from time to time? 18 MR. NICHOLAS: Object to the 19 form. 20 THE WITNESS: I mean, our 21 customers are business partners of ours, 22 yes. 23 BY MR. PIFKO: 24 Q. Are you familiar with what's</p>	<p style="text-align: right;">Page 88</p> <p>1 anyone? 2 A. I can't recall having that 3 discussion with anyone. 4 Q. Okay. You have zero familiarity 5 with the use of chargeback data or 852 data or 6 867 data? 7 A. No. 8 Q. What about IQVA data or IMS data, 9 are you familiar with that type of data? 10 A. I know IMS is a data company 11 that -- is a data company that different 12 departments within the company uses. 13 Q. Have you ever used that data in 14 connection with your diversion control programs? 15 A. I believe we piloted something 16 years back, but I don't know the specifics of 17 that. 18 Q. What caused you to pilot that 19 data at some point in your history? 20 A. I think they were -- they had 21 mentioned that they have certain data that -- and 22 then we -- I believe. Again, I wasn't involved 23 with the pilot. I don't know if they piloted it 24 or what, but at some time we had access to</p>
<p style="text-align: right;">Page 87</p> <p>1 called sometimes chargeback data or fee for 2 services data? 3 A. I mean, I have heard of that. 4 I'm not intricately knowledgeable about that. 5 Q. Okay. 6 A. We have a department that handles 7 that type of stuff. 8 Q. Have you ever heard of 867 data 9 or 852 data? Do you know that term? 10 A. I know there's numbers to data, 11 but I don't -- I couldn't tell you if those were 12 the correct three numbers to -- I have heard 13 people reference data with -- accustomed to 14 numbers like that. 15 Q. You agree that AmerisourceBergen 16 provides transactional data back to the 17 manufacturers from whom it purchases products. 18 Correct? 19 MR. NICHOLAS: Object to the 20 form. 21 THE WITNESS: That's not my area, 22 and I -- you know, I don't know for sure. 23 BY MR. PIFKO: 24 Q. You've never discussed that with</p>	<p style="text-align: right;">Page 89</p> <p>1 certain data the diversion control group piloted. 2 It was years back. I'm not sure when exactly. 3 Q. Who would have known about that? 4 A. David May. 5 Q. Do you have any understanding 6 about how that data was used in connection with 7 AmerisourceBergen's diversion control program? 8 A. I don't know exactly how it 9 was -- you know, I'm -- not exactly, no. 10 - - - 11 (Deposition Exhibit No. Zimmerman 12 V2-5, Email dated 17 Oct 2017, Bates 13 stamped ABDCMDL00272819, was marked for 14 identification.) 15 - - - 16 BY MR. PIFKO: 17 Q. Handing you what's marked as 18 Zimmerman Volume 2, Exhibit 5. For the record, 19 it's a single-page document Bates labeled 20 ABDCMDL00272819. 21 Let me know when you're done 22 looking at that. 23 A. (Reviewing document.) 24 Okay.</p>

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1 Q. Have you seen this before?  
2 A. It has my name on it.  
3 Q. Did you write this?  
4 A. I would assume so.  
5 Q. Do you remember writing this?  
6 A. I don't remember writing it.  
7 Q. This is about a 60 Minutes and  
8 Washington Post article. Agree?  
9 A. Yes.  
10 Q. And you're writing some comments  
11 to, as you say, address the article. Agree?  
12 A. Yes.  
13 Q. Why were you writing these  
14 comments?  
15 A. I don't know -- I don't recall  
16 writing them, but -- I don't know. It looks like  
17 notes to myself.  
18 Q. Item 1 here you say, "DEA sets  
19 quotas for the amount of opioids to be  
20 manufactured each year and DEA raised quotas over  
21 1000%" over "Joe R."  
22 Do you see that?  
23 A. Yes.  
24 Q. Do you know who Joe R. referred

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1 to here?  
2 A. Joe Rannazzisi.  
3 Q. What's the point you're trying to  
4 make in item 1?  
5 MR. NICHOLAS: Object to the  
6 form.  
7 THE WITNESS: Yeah. I'm not  
8 trying to make any points. I'm just  
9 making a note that DEA raised quotas over  
10 1,000 percent. Schedule II products have  
11 to have quotas, and DEA controls how much  
12 opioids are manufactured each year to be  
13 distributed.  
14 BY MR. PIFKO:  
15 Q. Do you know that the DEA  
16 considers the prior year's disposal as part of  
17 calculating the quota?  
18 MR. NICHOLAS: Object to the  
19 form.  
20 THE WITNESS: I don't.  
21 BY MR. PIFKO:  
22 Q. Have you ever been in a meeting  
23 with HDA or anybody discussing the quotas?  
24 A. I don't recall.

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1 Q. Have you ever discussed the  
2 quotas with any of your manufacturer clients or  
3 customers?  
4 A. Not that I -- not that I know of.  
5 We -- you know, as a distributor, we don't deal  
6 with -- I mean, we're not involved in quotas.  
7 Q. How about, have you ever heard of  
8 getting an allocation of a manufacturer's quota  
9 for distribution?  
10 A. I'm not sure -- I know we get  
11 allocated product on short supply items. I'm not  
12 sure if that's what you're referencing.  
13 Q. Have you ever like, for example,  
14 applied to get a certain percentage of the  
15 distribution of Schedule II controlled substances  
16 manufactured by like Purdue?  
17 A. I wouldn't know that.  
18 Q. Who would know that?  
19 A. If it's a purchasing or  
20 procurement, then it would be that -- global  
21 sourcing is the name of the department that does  
22 all the buying for the company.  
23 Q. Item number 2 here says, "DEA  
24 issued registrations to pill mills that 'popped

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1 up' (Joe R's words) without due diligence  
2 enabling them to receive opioids from  
3 distributors under Joe R's oversight."  
4 Do you see that?  
5 A. Yes.  
6 Q. What are you trying to convey  
7 here?  
8 A. Again, these are just notes I had  
9 written down based upon the 60 Minutes interview  
10 with Joe Rannazzisi. And that was the statement  
11 that he made, that he was referencing pill mills,  
12 but he didn't indicate that the pill mills were  
13 all vetted and approved and licensed in good  
14 standing with DEA and the Boards of Pharmacy.  
15 Q. Was it --  
16 A. Go ahead. I'm sorry.  
17 Q. Continue.  
18 A. No.  
19 Q. Was this something you were  
20 writing because you intended to draft something  
21 in response to the article?  
22 A. No.  
23 Q. Were you upset by the article in  
24 the 60 Minutes story?

<p style="text-align: right;">Page 94</p> <p>1 A. Was I upset? No, I wasn't upset.          2 I mean, I think the commentary -- you know,          3 mentioning pill mills, that there is -- that this          4 is a -- you know, these pills mills were popping          5 up. They weren't popping up. DEA was licensing          6 every one of these pill mills.          7 So here's the head of the DEA --          8 former DEA person blaming it on the pop up of the          9 pill mills that his department licensed that          10 enabled that to occur. And so, yeah, I get          11 frustrated, because we do what we're supposed to          12 do in the supply chain, and we're not an          13 enforcement agency, and the enforcement agency is          14 trying to blame it on the regulated wholesalers          15 when they're the ones who license these          16 pharmacies, they license these doctors, they          17 review all the information, they know every pill          18 that's sold. They have full enforcement          19 discretion. They can go into pharmacies, they          20 can raid pharmacies, they can go into doctors.          21 But instead, they're focusing on distributors          22 that have no line of sight to that, and then make          23 it sound that we're just selling to people that          24 aren't licensed, which is completely out of line.</p>	<p style="text-align: right;">Page 96</p> <p>1 They have all the distribution. They          2 know how many pills are going to each          3 pharmacy. They know how many pills are          4 going to what areas. They have full --          5 they have all that information.          6 Part of our deal in 2007 was to          7 report every single controlled substance          8 sale every day to DEA, which we did.          9 Full transparency. And that discussion          10 was in the event that we do find -- you          11 know, we know this is a new program and a          12 new area, so we want you to report every          13 order. And if we see something          14 suspicious, we'll call you. And then          15 we'll tweak it some more.          16 We never received a call. We          17 never received any other issues. And now          18 we have him on 60 Minutes saying that          19 we're servicing all these -- you know,          20 the distributors are servicing these pill          21 mills, it's just -- again, I think          22 there's a lot of blame to go around, but          23 I can tell you that if a doctor didn't          24 write the prescription, then we wouldn't</p>
<p style="text-align: right;">Page 95</p> <p>1 We only sell to DEA licensed          2 pharmacies and hospitals. And we take our          3 responsibilities very seriously. So when I see a          4 guy on 60 Minutes who -- we negotiated our deal          5 with Joe Rannazzisi. He negotiated our program          6 and existence from 2007 forward. And here he is          7 making all these claims. He was in the room          8 across the table from me. He agreed on          9 everything that we put in place. Everything.          10 And then to have a 60 Minutes          11 article come out and kind of lambast what he          12 worked with us and negotiate is, yes,          13 frustrating. Yeah.          14 Q. So you feel that the DEA had          15 responsibility for the opioid crisis?          16 MR. NICHOLAS: Object to the          17 form.          18 THE WITNESS: I'm not -- again,          19 the opioid crisis is a huge -- I mean,          20 there's a -- you know, there's a lot of          21 areas that assumes that opioid crisis.          22 Does DEA, they set the quotas. They          23 license the doctors. They license the          24 pharmacies. They have all the data.</p>	<p style="text-align: right;">Page 97</p> <p>1 sell it to the pharmacy and, you know, it          2 wouldn't get into -- into the public.          3 BY MR. PIFKO:          4 Q. The fourth one here, you say, the          5 "opioid problem continuously got worse year over          6 year under Joe's...rule."          7 Do you see that?          8 A. I see that.          9 Q. Why did you think that was an          10 important note to make?          11 MR. NICHOLAS: Object to the          12 form.          13 THE WITNESS: Again, these are          14 just notes I was writing as he was --          15 as -- during the 60 Minutes. And he's,          16 you know, discussing the problem with          17 opioids. And he was in full control of          18 the DEA during that entire time.          19 Did he ever introduce legislation          20 or propose rules? He was in charge. Why          21 didn't he put proposed rules to further          22 regulate controlled substance          23 distribution? Why didn't he create a          24 special license for pain management so we</p>

<p style="text-align: right;">Page 98</p> <p>1 could focus on the issue and vet those,  2 more importantly, and then let DEA have  3 an idea for enforcement? There was --  4 why didn't he share the data that he was  5 receiving so distributors could make more  6 cognizant decisions based upon a full  7 volume of information versus just what  8 we're selling?</p> <p>9 He was in charge of all that.  10 And during that time, we were trying to  11 open up a dialogue to how can we help to  12 the crisis, and we weren't getting any  13 communication. So that's -- that's, you  14 know, why I wrote that the problem  15 continued to occur while he was in  16 charge.</p> <p>17 BY MR. PIFKO:  18 Q. You presided over  19 AmerisourceBergen's diversion control problem the  20 entire time as well. Correct?</p> <p>21 A. We -- excuse me, can you state  22 that again?</p> <p>23 Q. You presided over  24 AmerisourceBergen's diversion control program</p>	<p style="text-align: right;">Page 100</p> <p>1 have a --  2 BY MR. PIFKO:  3 Q. You have your license  4 suspended --  5 MR. NICHOLAS: Don't interrupt  6 him.  7 THE WITNESS: We have a  8 distribution license, which the  9 regulations explain what our  10 responsibilities are. We meet our  11 responsibilities. I have been in charge  12 of it, yes, during that entire time, for  13 the last 30 years. And I take it very  14 seriously. And we do follow our  15 regulations, our responsibilities.  16 And when I think we can improve  17 it, I have done it in '98. I did it in  18 2007. I tried -- I have been trying  19 since 2007. I've been on the Hill for  20 the last ten years hoping to try to  21 improve our relationships with DEA, open  22 up conversations, how can we solve the  23 crisis.  24 I have offered solutions,</p>
<p style="text-align: right;">Page 99</p> <p>1 during the entire time as well. Correct?  2 A. Yes.  3 Q. And the problem got worse under  4 your tenure as well. Correct?</p> <p>5 MR. NICHOLAS: Object to the  6 form.  7 THE WITNESS: Again, not based  8 upon -- we were meeting all of our  9 regulatory requirements. We were going  10 to the Hill and proposing possible  11 solutions to open up and work with DEA.  12 We can't make new laws. We can't make  13 new registrations. We can't make  14 enforcement decisions. We don't issue  15 DEA licenses. DEA does all that. But  16 for some reason --  17 BY MR. PIFKO:  18 Q. You got your license --  19 MR. NICHOLAS: Don't interrupt  20 him.  21 THE WITNESS: But for some  22 reason, everyone expects the distributors  23 to be the enforcement agency, the  24 licensing agency. It's ridiculous. We</p>	<p style="text-align: right;">Page 101</p> <p>1 licensing requirements, clearinghouses,  2 everything. Zero. We've asked for  3 meetings. Zero. I can't force  4 regulations. And then I can't imply  5 those requirements onto our pharmacy  6 customers, who are licensed by DEA, who  7 have patients coming in. I can't say to  8 ABC, you know what, we're just going to  9 stop selling opioids. I can't do that,  10 because opioids are a legitimate  11 medication for the treatment of pain, and  12 there's patients that need them.  13 BY MR. PIFKO:  14 Q. You've been --  15 A. And so you guys -- again, you  16 want us to do everybody's job in the supply  17 channel. We are doing our job. We're also  18 offering solutions that we can control.  19 I can't control a doctor writing  20 prescription. I can't control a pharmacist who  21 fills the prescription. I control who we sell  22 to, to make sure that they're licensed and that  23 we vet them properly. And we could provide  24 training the best we can. But that's all I can</p>

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1 control.  
2 I can't control the pharmacy, I  
3 can't control the doctor, and I can't control  
4 DEA.  
5 Q. But you haven't been complying  
6 with the law the entire time either. You got an  
7 order to show cause. You got a consent agreement  
8 with you.  
9 MR. NICHOLAS: Object to the  
10 form.  
11 THE WITNESS: But what -- so we  
12 received an order to show cause.  
13 BY MR. PIFKO:  
14 Q. You're not complying with the  
15 law. You're saying you're doing everything you  
16 can. You could start by complying with the law.  
17 Do you agree?  
18 MR. NICHOLAS: Object to the  
19 form.  
20 THE WITNESS: I was -- we were  
21 complying with the law.  
22 BY MR. PIFKO:  
23 Q. Why did the DEA send you an order  
24 to show cause?

10 - - -

11 (Deposition Exhibit No. Zimmerman

12 V2-7, Map Chart, Bates stamped x through

13 x, was marked for identification.)

14 - - -

15 MR. NICHOLAS: Can we get a check

16 on the time while we're doing this?

17 THE VIDEOGRAPHER: Five minutes

18 left.

19 BY MR. PIFKO:

20 Q. I'm handing you what's marked as

21 Zimmerman Volume 2, Exhibit 7.

22 Is any part of your -- you're in

23 charge of diversion control. Right? You're the

24 top person at AmerisourceBergen responsible for

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1 I can't control the DEA.  
2 Q. Why was the US Attorney's Office  
3 investigating you?  
4 MR. NICHOLAS: I object to the  
5 form.  
6 THE WITNESS: I can't control  
7 them either. I don't know. I know what  
8 we do, and I know the rules and our  
9 obligations under regulatory  
10 requirements, and we uphold those.  
11 - - -  
12 (Deposition Exhibit No. Zimmerman  
13 V2-6, Pay Change History, Bates stamped  
14 ABDCMDL00383878, was marked for  
15 identification.)  
16 - - -  
17 BY MR. PIFKO:  
18 Q. I'm handing you what's marked as  
19 Exhibit Zimmerman Volume 2, Exhibit 6.  
20 ABDCMDL00383878.

[illegible]

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1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 Q. You have a component of your  
18 salary that's --  
19 A. My job is preventing diversion.  
20 That's the basis of my department. If we were  
21 selling to unlicensed locations that result in  
22 diversion, then yes. If we had product that we  
23 were -- that was flying out the back doors  
24 because we didn't have adequate security, yes,

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1 that would be my responsibility.  
2 And we would -- and so we don't  
3 have that happening. We don't sell to unlicensed  
4 locations. We do report suspicious orders. We  
5 meet all of our regulatory responsibilities. And  
6 since we do, that's probably why I have gotten my  
7 increases, because we haven't had those actions  
8 taken against us in the 30 years I have been in  
9 my role.  
10 We take those seriously. I know  
11 to you we don't. But I do. I take it  
12 personally. I spent my entire career --  
13 MR. NICHOLAS: Don't interrupt.  
14 BY MR. PIFKO:  
15 Q. You had an order to show cause --  
16 MR. NICHOLAS: Don't interrupt.  
17 MR. PIFKO: He's done.  
18 BY MR. PIFKO:  
19 Q. You had an order to show cause  
20 issued against you in 2007, and you had to  
21 negotiate a settlement agreement. In 2008, you  
22 get a merit adjustment. Agree?  
23 A. In 2007 we got an order to show  
24 cause. And the first question I asked him, I

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1 said, what is this about. And they said,  
2 suspicious orders. And they said -- I said,  
3 well, what about our approved system. They said,  
4 what approved system. They weren't even aware  
5 the DEA had approved our system.  
6 So there was a big  
7 miscommunication between DEA when that happened.  
8 So we went to negotiate. There was never a -- we  
9 didn't pay any fine. We negotiated to help with  
10 a program that we felt might enhance what we had  
11 existingly for the good of the -- for the good of  
12 the distribution chain. And then they asked me  
13 to --  
14 Q. Let's look at --  
15 A. Then they asked me to present at  
16 their DEA conference, to share our program with  
17 the other distributors. So if we're such bad  
18 actors, why are they asking us to present at the  
19 DEA conference about our programs?  
20 Q. Let's talk about what's happening  
21 to the country with respect to drug overdoses  
22 while you're get merit bonuses and running the  
23 diversion control program.  
24 A. Right.

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1 Q. Look at Exhibit 8. Do you  
2 understand --  
3 MR. NICHOLAS: How much time?  
4 Two minutes? Okay.  
5 BY MR. PIFKO:  
6 Q. Do you understand how to read  
7 this?  
8 A. Is there a page you want me to --  
9 Q. The blue. The blue is lower  
10 death rates.  
11 You understand, as you scroll  
12 forward from 1990 to 2000, the overdose death  
13 rates are skyrocketing in the United States.  
14 MR. NICHOLAS: If you're going to  
15 give him a document like this, you're  
16 going to need to let him look at it.  
17 THE WITNESS: Okay. I see it.  
18 BY MR. PIFKO:  
19 Q. Do you agree that that's what's  
20 happening in the country?  
21 A. That's what this map shows.  
22 Q. And while you're responsible for  
23 preventing diversion, this is what's happening.  
24 A. I'm responsible --

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1 MR. NICHOLAS: Let him finish.  
2 THE WITNESS: I'm responsible for  
3 diversion from my -- from our company.  
4 Correct. I'm not responsible for  
5 diversion from the pharmacy, from the  
6 doctor, from the patient who has the  
7 pills that he's been prescribed that he's  
8 selling. We don't -- we can't prevent  
9 that. We -- our role in the supply chain  
10 is defined by the Code of Federal  
11 Regulations, and we meet all those  
12 requirements.  
13 And since it's -- you showed me  
14 this year over year, where's the new  
15 regulations every year from the  
16 government imposing new requirements to  
17 combat this? Where are those? Why isn't  
18 DEA calling me and having conversations  
19 about, hey, we've got a severe problem,  
20 can you help us fix it? Where is that?  
21 BY MR. PIFKO:  
22 Q. What are your improvements doing  
23 to resolve --  
24 A. I can't license them. I can't

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1 create a new license. I've told them that that's  
2 what we need. These are things we can do to  
3 help, that the distributor can do, that can  
4 control. If you license a pain clinic for -- to  
5 dispense higher levels of opioids, then you could  
6 put additional requirements on them. It  
7 identifies the manufacturer and the distributor  
8 that they sell more. If I have a retail pharmacy  
9 that wants more, I can tell them go get the pain  
10 license, it's going to cost you better -- it's  
11 going to cost you some money and it's going to  
12 cost you better education and more oversight by  
13 DEA.  
14 I can't control that, but it  
15 seems like a simple fix to at least crack down on  
16 some of this. But nothing. Nothing. The  
17 government's done nothing.  
18 Q. It's your testimony that --  
19 MR. NICHOLAS: We're at an  
20 hour-and-a-half. We're over --  
21 MR. PIFKO: No. One more  
22 question.  
23 MR. NICHOLAS: No. I'm sorry,  
24 Mark.

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1 MR. PIFKO: I've got one more  
2 question. I'm going to ask it.  
3 MR. NICHOLAS: Mark --  
4 MR. PIFKO: You've been talking.  
5 Okay?  
6 MR. NICHOLAS: Mark, I have not  
7 been talking.  
8 MR. PIFKO: I've got more  
9 question. I'm going to ask it.  
10 MR. NICHOLAS: You've been  
11 badgering with him questions that are  
12 unnecessary.  
13 MR. PIFKO: I've got one more  
14 question.  
15 MR. NICHOLAS: Hold on.  
16 MR. PIFKO: Let me ask my one  
17 more question and we can be done.  
18 BY MR. PIFKO:  
19 Q. My question is, you think you've  
20 done everything you can do to prevent diversion?  
21 A. Yes. I think -- I think me and  
22 my team have done everything we can to prevent  
23 diversion, over and above going to congress,  
24 meeting with people, trying to get additional

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1 requirements imposed, regulations. We're waiting  
2 for proposed rules, we keep hearing they're  
3 coming out.  
4 We want to be part of the  
5 solution. But we can't do it one sided. You  
6 need the collaboration of all stakeholders, and  
7 you can't have it without the regulators and the  
8 enforcement agencies and the people who license  
9 these doctors and these pharmacies. We can't do  
10 that. Alls we can do is make sure we have  
11 patient -- medication available for those  
12 patients when they need it and that -- those  
13 pharmacies are properly licensed. And that's --  
14 again, I think we do that.  
15 MR. NICHOLAS: Okay. We're done.  
16 Thank you.  
17 THE VIDEOGRAPHER: This ends  
18 today's deposition. We're going off the  
19 record at 3:32 p.m.  
20 (Witness excused.)  
21 (Deposition concluded at  
22 approximately 3:32 p.m.)  
23  
24

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1  
2 CERTIFICATE  
3  
4  
5 I HEREBY CERTIFY that the witness  
6 was duly sworn by me and that the deposition is a  
7 true record of the testimony given by the  
8 witness.  
9  
10 It was requested before  
11 completion of the deposition that the witness,  
12 CHRIS ZIMMERMAN, have the opportunity to read and  
13 sign the deposition transcript.  
14  
15 \_\_\_\_\_  
16 ANN MARIE MITCHELL, a Federally  
17 Approved Certified Realtime  
18 Reporter, Registered Diplomat  
19 Reporter, Registered Merit Reporter and  
20 Notary Public  
21  
22 (The foregoing certification of  
23 this transcript does not apply to any  
24 reproduction of the same by any means, unless  
under the direct control and/or supervision of  
the certifying reporter.)

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1 INSTRUCTIONS TO WITNESS  
2  
3 Please read your deposition over  
4 carefully and make any necessary corrections.  
5 You should state the reason in the appropriate  
6 space on the errata sheet for any corrections  
7 that are made.  
8 After doing so, please sign the  
9 errata sheet and date it.  
10 You are signing same subject to  
11 the changes you have noted on the errata sheet,  
12 which will be attached to your deposition.  
13 It is imperative that you return  
14 the original errata sheet to the deposing  
15 attorney within thirty (30) days of receipt of  
16 the deposition transcript by you. If you fail to  
17 do so, the deposition transcript may be deemed to  
18 be accurate and may be used in court.  
19  
20  
21  
22  
23  
24

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1 - - - - -  
2 E R R A T A  
3 - - - - -  
4 PAGE LINE CHANGE  
5 \_\_\_\_\_  
6 REASON: \_\_\_\_\_  
7 \_\_\_\_\_  
8 REASON: \_\_\_\_\_  
9 \_\_\_\_\_  
10 REASON: \_\_\_\_\_  
11 \_\_\_\_\_  
12 REASON: \_\_\_\_\_  
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22 REASON: \_\_\_\_\_  
23 \_\_\_\_\_  
24 REASON: \_\_\_\_\_

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1  
2 ACKNOWLEDGMENT OF DEPONENT  
3  
4 I, \_\_\_\_\_, do  
5 hereby certify that I have read the foregoing  
6 pages, 1 - 117, and that the same is a correct  
7 transcription of the answers given by me to the  
8 questions therein propounded, except for the  
9 corrections or changes in form or substance, if  
10 any, noted in the attached Errata Sheet.  
11  
12  
13 \_\_\_\_\_  
14 CHRISTOPHER ZIMMERMAN DATE  
15  
16  
17 Subscribed and sworn  
18 to before me this  
19 \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
20 My commission expires: \_\_\_\_\_  
21  
22 \_\_\_\_\_  
23 Notary Public  
24